



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: JANUARY 10, 2023

IN THE MATTER OF:

Appeal Board No. 625692

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination denying additional training benefits pursuant to Labor Law § 599 (2) because the claimant's

request for training approval was made after the claimant exhausted regular benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances by and on behalf of the claimant. By decision filed August 30, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a further hearing. The Judge did not offer the claimant an opportunity to adjourn the hearing to have the Commissioner of Labor produce Ronald C. Brigham, a Labor Services Representative, and all other individuals with first-hand knowledge, to discuss the claimant's application for § 599 training benefits in September 2021.

At the further hearing, the Commissioner of Labor is directed to produce Ronald C. Brigham, and any additional witnesses with first-hand knowledge, to provide evidence regarding (1) the claimant's application for training

benefits in September 2021, (2) the Department of Labor's approval of such benefits as of September 9, 2021, and (3) why no additional benefits were paid to the claimant despite the purported approval of the training benefits prior to the expiration of her benefit year in October 2021. The witness(es) will be confronted with all the documentation previously marked as Hearing Exhibits 1-9 from the August 2022 hearing, and in particular asked to explain and comment upon Hearing Exhibit 3, the claimant's application for training benefits, as well as the email chain of September 2021 and August 2022, Hearing Exhibit 9. Any additional documentary evidence necessary to complete the record shall be produced at hearing for review and objection.

The parties will offer such additional testimony and evidence necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER